IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Chapter VIII, Rule 32(2) (b)
Description of case

Writ Petition No. 511 of 2002 (M/B)

Date of decision: 7th June, 2006

A.F.R. (Approved for Reporting)

~~Not approved for Reporting~~

Date 7.6.2006. Initials of Judge

Note: Bench Reader will attach this at the top of first page of the judgment when it is put up before the Judge for signature.

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 511 of 2002 (M/B)

Om Prakash Sharma S/o Sri Baldev Raj Sharma,
R/o Rajpura, Near Grand Hotel,
Mallital, Nainital. ……. Petitioner

Versus

1. Himalaya Institute of Medical Science,
   Jollygrant, Dehradun.
2. Medical Council of India, New Delhi.
3. Union of India,
   through Secretary, Health and Medical Education.
4. Chaudhary Charan Singh University,
   Meerut through its Registrar.
5. Hemwati Nandan Bahuguna University,
   Srinagar, Garhwal,
   Through its Registrar. …… Respondents

Mr. P.M.N. Singh, Senior Counsel with Ms. Prabha Nauliyal, Advocate for the petitioner.
Mr. V.K. Kohli, Senior Counsel with Mr. Lokendra Singh, Advocate for respondent No. 1.
None for respondents Nos. 2 to 5.

JUDGMENT

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble Prafulla C. Pant, J.

RAJEEV GUPTA, C. J. (Oral)

Mr. P.M.N. Singh, Senior Counsel with Ms. Prabha Nauliyal, Advocate for the petitioner.

Mr. V.K. Kohli, Senior Counsel with Mr. Lokendra Singh, Advocate for respondent No. 1.

None for respondents Nos. 2 to 5.

2. They are heard.

3. The petitioner, claiming himself to be a social worker, has filed this writ petition styled as 'Public Interest Litigation' for the following reliefs:

> "1. A suitable writ or direction or order in the nature of prohibition restraining Respondent institute

from conducting Post Graduate studies in Medical Science and also be restrained from taking admission in the said courses.

2. Any other suitable writ or direction as this Hon'ble High Court may deem fit and proper in the circumstances of the case.

3. Award cost of the Petitioner in favour of the Petitioner."

4. Mr. V.K. Kohli, the learned Senior Counsel for respondent No. 1 raised a preliminary objection about the maintainability of the writ petition as 'Public Interest Litigation' at the behest of petitioner Om Prakash Sharma, who has not disclosed his status, occupation and credentials in the petition.

5. Mr. P.M.N. Singh, the learned Senior Counsel for the petitioner, to meet the above preliminary objection of the learned senior Counsel appearing on behalf of respondent No. 1, took us through para 1 of the writ petition, which reads as follows:

"1. That this is the first writ Petition of the Petitioner before this Hon'ble High Court prohibiting the Respondent institute form conduction post graduate studies in Medical Science and during the pendency of Writ Petition restraining it from taking admission in the said courses. Petitioner has not filed any other Writ petition seeking same or ancillary relief. It is stated that the Petitioner is social worker and this Petition is being filed in public interest. It is further stated that Petitioner has no interest adverse to or against the Respondent No. 1 or any person connected with it."

6. The Apex Court, in the case of **Gurupal Singh Vs. State of Punjab and others** reported in **(2005) 5 SCC 136** while sounding a note of caution to the High Courts to weed out frivolous petitions titled as 'Public Interest Litigation', observed in paras 5 to 10:

"5. The scope of entertaining a petition styled as a public interest litigation, locus standi of the petitioner particularly in matters involving service of an employee has been examined by this Court in various cases. The Court has to be satisfied about (a) the credentials of the applicant; (b) the prima facie correctness or nature of information given by him; (c) the information being not vague and indefinite. The information should show

gravity and seriousness involved. Court has to strike balance between two conflicting interests: (i) nobody should be allowed to indulge in wild and reckless allegations besmirching the character of others; and (ii) avoidance of public mischief and to avoid mischievous petitions seeking to assail, for oblique motives, justifiable executive actions. In such case, however, the Court cannot afford to be liberal. It has to be extremely careful to see that under the guise of redressing a public grievance, it does not encroach upon the sphere reserved by the Constitution to the executive and the legislature. The Court has to act ruthlessly while dealing with impostors and busybodies or meddlesome interlopers impersonating as public-spirited holy men. They masquerade as crusaders of justice. They pretend to act in the name of pro bono public, though they have no interest of the public or even of their own to protect.

6. Courts must do justice by promotion of good faith, and prevent law from crafty invasions. Courts must maintain the social balance by interfering where necessary for the sake of justice and refuse to interfere where it is against the social interest and public good. (See State of Maharashtra v. Prabhu2 and A.P. State Financial Corpn. v. GAR Re-Rolling Mills3.) No litigant has a right to unlimited draught on the court time and public money in order to get his affairs settled in the manner as he wishes. Easy access to justice should not be misused as a licence to filed misconceived and frivolous petitions. [See Buddhi Kota Subbarao (Dr.) v. K. Parasaran4.] Today people rush to courts to file cases inprofusion under this attractive name of public interest. They must inspire confidence in courts and among the public.

7. As noted supra, the time has come to weed out the petitions, which though titled as public interest litigations are in essence something else. It is shocking to note that courts are flooded with a large number of so- called public interest litigations where only a minuscule percentage can legitimately be called as public interest litigations. Though the parameters of public interest litigation have been indicated by this Court in a large number of cases, yet unmindful of the real intentions and objectives, High Courts are entertaining such petitions and wasting valuable judicial time which, as noted above, could be otherwise utilized for disposal of genuine cases. Though in Duryodhan Sahu (Dr.) v. Jitendra Kumar Mishra5 this Court held that in service matters PILs should not be entertained, the inflow of so-called PILs involving service matters continues unabated in the courts and strangely are entertained. The least the High Courts could do is to throw them out on the basis of the said

decision. The other interesting aspect is that in the PILs, official documents are being annexed without even indicating as to how the petitioner came to possess them. In one case, it was noticed that an interesting answer was given as to its possession. It was stated that a packet was lying on the road and when out of curiosity the petitioner opened it,he found copies of the official documents. Whenever such frivolous pleas are taken to explain possession, the Courts should do well not only to dismiss the petitions but also to impose exemplary costs. It would be desirable for the courts to filter out the frivolous petitions and dismiss them with costs as aforestated so that the message goes in the right direction that petitions filed with oblique motive do not have the approval of the courts.

8. The aforesaid position was highlighted in Ashok Kumar Pandey v. State of W.B.

9. It is depressing to note that on account of such trumpery proceedings initiated before the courts, innumerable days are wasted, which time otherwise could have been spent for the disposal of cases of the genuine litigants. Though we spare no efforts in fostering and developing the laudable concept of PIL and extending our long arm of sympathy to the poor, the ignorant, the oppressed and the needy whose fundamental rights are infringed and violated and whose grievances go unnoticed, unrepresented and unheard; yet we cannot avoid but express our opinion that while genuine litigants with legitimate grievances relating to civil matters involving properties worth hundreds of millions of rupees and substantial rights and criminal cases in which persons sentenced to death facing the gallows under untold agony and persons sentenced to life imprisonment and kept in incarceration of long years, persons suffering from undue delay in service matters – government or private, persons awaiting the disposal of tax cases wherein huge amounts of public revenue or unauthorized collection of tax amounts are locked up, detenus expecting their release from the detention orders, etc. etc. are all standing in a along serpentine queue for years with the fond hope of getting into the courts and having their grievances redressed, the busybodies, meddlesome interlopers, wayfarers or officious interveners having absolutely no real public interest except for personal gain or private profit either of themselves or as a proxy of others or for any other extraneous motivation or for glare of publicity break the queue muffling their faces by wearing the mask of public interest litigation and get into the courts by filing vexatious and frivolous petitions of luxury litigants who have nothing to lose but trying to gain for nothing and thus criminally waste the valuable time of the courts and

> as a result of which the queue standing outside the doors of the court never moves, which piquant situation creates frustration in the minds of the genuine litigants.
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> 10. Public interest litigation is a weapon which has to be used with great care and circumspection and the judiciary has to be extremely careful to see that behind the beautiful veil of public interest an ugly private malice, vested interest and/or publicity-seeking is not lurking. It is to be used as an effective weapon in the armoury of law for delivering social justice to the citizens. The attractive brand name of public interest litigation should not be allowed to be used for suspicious products of mischief. It should be aimed at redressal of genuine public wrong or public injury and not publicity- oriented or founded on personal vendetta. As indicated above, court must be careful to see that a body of persons or member of the public, who approaches the court is acting bona fide and not for personal gain or private motive or political motivation or other oblique consideration. The court must not allow its process to be abused for oblique considerations by masked phantoms who monitor at times from behind. Some persons with vested interest indulge in the pastime of meddling with judicial process either by force of habit or from improper motives and try to bargain for a good deal as well as to enrich themselves. Often they are actuated by a desire to win notoriety or cheap popularity. The petitions of such busybodies deserve to be thrown out by rejection at the threshold, and in appropriate cases with exemplary costs."

7. On a bare reading of the above-quoted para 1 of the writ petition, it is apparent that what has been stated about petitioner Om Prakash Sharma in this para is wholly insufficient to establish his credentials as a public spirited person.

8. In this view of the matter, the present writ petition filed as 'Public Interest Litigation', in view of the above-quoted dictum of the Apex Court, is liable to be dismissed and is, hereby, dismissed.

(Prafulla C. Pant, J.) **(Rajeev Gupta, C. J.)**
07.06.2006 07.06.2006

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